

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 18-CR-20489

Plaintiff,

Thomas L. Ludington
United States District Judge

v.

Patricia T. Morris
United States Magistrate Judge

JAMES D. PIERON, JR.,

Defendant.

GOVERNMENT’S THIRD SUPPLEMENTAL BRIEF ON TAX-LOSS ISSUES

The government stands by the tax loss calculations it has previously provided to the court and defense counsel. The government submits this supplemental brief to demonstrate that Pierson’s base offense level would not be reduced below 24, even if the court included the cost-basis for the JDFX stock claimed by Pieron on his amended 2008 return in the court’s tax loss calculation.

The government has calculated the defendant’s total criminal tax loss amount for 2008 and 2009 as \$6,435,250.50, which yields a base offense level under USSG §§2T1.1(a) and 2T4.1(J) of 24. The government’s computation does not include any cost-basis for JDFX stock sold by Pieron to Market Shot, Inc. Pieron’s amended 2008 tax return claimed a basis of \$710,129. The government has previously presented its arguments as to why this amount is false. Pieron, on

the other hand, no longer claims he had basis in the stock that he sold, because he now argues that he did not personally sell the JDFX stock.

The government's second supplemental brief on tax-loss noted that it was highly unlikely that any capital contribution made by Pieron would affect Pieron's base offense level of 24, which corresponds to a tax-loss range of \$3.5 million to \$9.5 million. (R. 125, PgID 2846, note 1). Though Pieron concedes the invalidity of the basis he claimed on his amended 2008 return, the government has recalculated Pieron's total tax loss amount to determine whether the basis he claimed in 2008 would affect his base offense level. The calculations confirm the observation in the government's second supplemental brief.

Assuming that Pieron actually had \$710,129 in basis as he claimed on his 2008 amended tax return, Pieron's total tax loss for 2008 and 2009 with interest and penalties up to April 2019 would be \$5,989,868.13. This would not change Pieron's base offense level of 24, because it is well within the range of \$3.5 to \$9.5 million, as demonstrated below.

Government's loss calculation (without basis)		Loss calculation with basis (from 2008 amended return)
2008 criminal tax	\$2,517,958.00	\$2,319,122.00
2008 penalties est.	\$1,196,030.05	\$1,101,582.95
2008 interest est.	\$1,243,822.90	\$1,091,723.56
2009 criminal tax	\$ 777,320.00	\$ 777,320.00
2009 penalties est.	\$ 369,227.00	\$ 369,227.00
2009 interest est.	\$ 330,892.62	\$ 330,892.62
Total Tax Loss	\$6,435,250.57	\$5,989,868.13

Conclusion

Because including Pieron's previously claimed basis in the tax loss calculations would not affect his base offense level, the government does not believe an evidentiary hearing is necessary.

Respectfully submitted,

Date: October 23, 2019

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Certificate

On October 23, 2019, I filed this pleading by using the Clerk of the Court's ECF system. The ECF system will automatically serve counsel of record.

s/Jules DePorre